

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

COMANCHE NATION,)	
OKLAHOMA,)	
)	
Plaintiff,)	
)	
-vs-)	Case No. CIV-05-328-F
)	
UNITED STATES OF AMERICA,)	
et al.,)	
)	
Defendants.)	

ORDER

This matter came before the court for hearing on Friday, May 6, 2005, on plaintiff, Comanche Nation's Motion for Temporary Restraining Order and Preliminary Injunction (docket entry no. 8). For the reasons specifically stated on the record, the court granted a temporary restraining order on that date. In the order, defendants were restrained from publishing notice of approval of the Class III gaming compact between the State of Oklahoma and the Fort Sill Apache Tribe of Oklahoma in the Federal Register for a period of ten days, and plaintiff was ordered to post security in the amount of \$50,000.¹ The court also ordered that, at the end of ten days, the court would determine whether good cause existed for an extension of the temporary restraining order for a like period and would set forth in writing its reasons for the extension.

¹In accordance with the court's order, plaintiff deposited \$50,000 in certified funds with the Court Clerk on May 11, 2005.

At the May 6, 2005 hearing, the parties were advised that, because defendants had filed the previous evening (after business hours) a motion to dismiss, raising substantial issues which necessitated a response by plaintiff prior to any ruling on the preliminary injunction motion, the court would not address and adjudicate the preliminary injunction motion. Plaintiff has responded to the motion to dismiss within the time required by the court, and the court has now completed its review. Although the court is prepared to make a ruling in regard to defendants' dismissal motion as well as plaintiff's preliminary injunction motion (on the record before it), the court is mindful that, at the May 6 hearing, the parties indicated a desire to present some limited additional evidence bearing on the issues raised by plaintiff's preliminary injunction motion which might necessitate a short additional hearing. The court agreed that a short additional hearing would be appropriate.

A final preliminary injunction hearing will be scheduled by separate order. In light of defendants' filing of the motion to dismiss, which has required the court's study this week, and the need for an additional hearing on the preliminary injunction motion, the court concludes that good cause exists for purposes of Rule 65(b), Fed.R.Civ.P., to extend the temporary restraining order entered May 6, 2005, for an additional ten days. Flying Cross Check, L.L.C. v. Central Hockey League, Inc., 153 F.Supp.2d 1253, 1260 (D. Kan. 2001) (good cause would include that the court's calendar cannot reasonably accommodate an earlier setting for preliminary injunction hearing); S.E.C. v. Comcoa Ltd., 887 F. Supp. 1521, 1526, n. 7 (S.D. Fla. 1996) (good cause given was the court's need of time to fully consider the various arguments and motions of the parties). The court concludes that the original grounds in support of the temporary restraining order still exist and also support a final extension of the temporary restraining order.

The court finds, pursuant to Fed.R.Civ.P. 65(c), that the appropriate amount of security to be posted by the plaintiff, as required by Rule 65(c), conditioned as set forth in that rule, for the additional ten-day extension shall be the sum of \$50,000, secured by a surety bond in that amount, issued by a corporate surety on the Court Clerk's list of approved sureties (or secured by a cash deposit in the amount of \$50,000, as plaintiff may elect). Immediate posting of the additional bond is waived. The restraint of this order shall expire without further action by the court if the \$50,000 security is not posted by way of a surety bond, or deposited in cash in the registry of the court, by 5:00 p.m. on Wednesday, May 25, 2005.

ACCORDINGLY, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the temporary restraining order entered on May 6, 2005, restraining defendants from publishing any notice of approval of the class III gaming compact between the State of Oklahoma and the Fort Sill Apache Tribe of Oklahoma in the Federal Register, is extended for an additional ten days (computation of time governed by Fed.R.Civ.P. 6(a)), or until Monday, June 6, 2005.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that plaintiff shall provide additional security as set forth above, conditioned as set forth in Rule 65(c), in the sum of \$50,000.

Dated May 20, 2005. Entered as of the time recorded in the ECF system.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE